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Docket No.: 385/9-1487

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: William T. EVANS Conf. No.: 1047
Serial No.: 10/045,618 Group Art Unit: 3676
Filed: October 23, 2001 Examiner: Christopher J. Boswell
For: SYSTEM AND METHOD FOR AUTOMATED SELECTION AND
DELIVERY GIFTS

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO OFFICE ACTION

Sir:

In response to the Office Action dated September 15, 2004, the applicant respectfully traverses the examiners grounds for rejection.

The examiner rejected claims 1-2 and 4-12 under 35 USC § 103(a) as being unpatentable over the website "www.Greatclubs.com". in view of "www.gnc.com".

The examiner has improperly interpreted each of the cited references and additionally, has improperly combined the references.

The examiner admits that Greatclubs does not disclose the group of products being health care products, and has offered no evidence that Greatclubs allows a user to select an appropriate subset of the group of health care products to be sent as a gift.

Claim 1 specifically requires "means for a sender to select an appropriate subset of the group of healthcare products to be sent to the recipient as a gift." No such means are found at Greatclubs.com.

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This is because the Greatclubs system specifically does not permit a user to select specific subsets of the identified product group:

"What will I receive each month?

Each month you receive 2 different bottles of hand-crafted, hard to find wine from around the world."

"Can I choose the wine I receive?

No, all the wines are pre-selected for you."

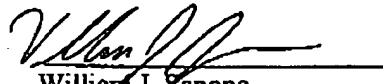
The Greatclubs sites are a series of clubs where each month a different product is sent to the recipient, and the user has no choice on what is delivered. There is no group of products from which one may have a selection, the only option is to join or cancel.

Given the clear and unambiguous description, there is little doubt that the system of the applicants invention is structurally different from the Greatclubs' system, regardless of the product involved, as the user has means to personally select the appropriate gift, i.e. specific products they deem to be appropriate and there is no monthly obligation to continue to receive products. Frequency of sending further gifts, if any, is set by user input, i.e., if the user wants a reminder in 3 months, or to resend in 7 months, that is what they will get. There is no requirement to send any further products, rather, there is the option to have the same gift assortment resent, so the recipient does not run out of the product.

The GNC website offers nothing like the applicants invention and even using health care products in the Greatclub system, one cannot select what is actually delivered as a gift.

Based on the above remarks, favorable consideration and allowance of the application is respectfully requested.

Respectfully submitted,


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